

DEC 23 1981

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Your purpose as stated in your constitution is to encourage the progress of each individual member and artist as well as to promote an interest in and better understanding of art by the general public.

Each month you offer an educational program to the general public consisting of demonstrations, lectures, slides and workshops on various art forms.

Once each year you sponsor an art competition for school children in grades six through twelve, and you hold a public art show once each month during which the art works of your members is sold. You receive a [REDACTED] percent commission on sales made at your shows; the remainder goes to the artist whose work is sold.

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for religious, charitable, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If any organization fails to meet either the organizational or operational test, it is not exempt.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
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Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Revenue Ruling 71-395, 1971-2 C.B. 228, held that a cooperative art gallery formed and operated by a group of artists for the purpose of exhibiting and selling their works does not qualify under section 501(c)(3) of the Code.

Revenue Ruling 76-152, 1976-1 C.B. 151, held that a nonprofit organization formed by art patrons to promote community understanding of modern art trends by selecting for exhibit, exhibiting and selling art works of local artists and retaining a ten percent commission on sales did not qualify for exemption under section 501(c)(3) of the Code.

As is the case in Revenue Rulings 71-395 and 76-152, the artists in the subject case are being directly benefited by the exhibition and sale of their works, with the result that a major activity of the organization is serving the private interests of those artists whose works are displayed for sale. Since ninety percent of all sales proceeds are turned over to the individual artists, such direct benefits are substantial by any measure and the organization's provisions of them cannot be dismissed as being merely incidental to its other purposes and activities.

Accordingly, it is held that you are not entitled to recognition of exemption from Federal income tax under section 501(c)(3) of the Code. You are required to file Federal income tax returns on Form 1120 for each year you have been in existence.

If you accept our findings, you do not need to take further action.

If you do not accept our findings, we recommend that you request a conference with the Office of Regional Director of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at our Regional office or, if you request, at any mutually convenient District office.

If we do not hear from you within 30 days from the date of this letter, this ruling will become final. If you have any questions, please contact the person whose name and telephone number are shown above.

[REDACTED]

If you do not protest this proposal determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
Acting District Director

Enclosure: Publication 892

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